

Appln No. 09/904,184
Amdt date September 22, 2006
Reply to Office action of March 23, 2006

REMARKS/ARGUMENTS

Reconsideration of this application is requested.

Independent claims 1, 18 and 35 have been amended. Claims 3, 11, 12, 20, 25, 26, 37, 45 and 46 have been cancelled. In view of this amendment, claims 1, 2, 4-10, 13-19, 21-24, 27-36, 38-44 and 46-51 are now in the application.

Mitchell discloses a method for conducting an advertising campaign, characterized as an advertising method which includes an advertiser initiating the campaign, selecting a product of the advertiser, selecting a retailer, printing the advertising materials containing the advertised product and a promotion, and delivering the printed advertising/promotional materials to the retailer who sells them to customers.

Mitchell describes steps in his advertising campaign but does not disclose computer implemented steps for carrying out various steps in the advertising method. For instance, the promotional methodology starting at paragraph [0033] does not mention computer implemented steps carried out nor does it disclose how they would be computer-implemented. Further, the claims do not mention use of a computer in carrying out the method steps of the campaign.

In the rejection of claim 1, at page 2, the Examiner also holds that Mitchell discloses a "computer implemented" method which includes "transmitting a marketing material completed design to a printer for production of the marketing materials upon receiving corporate sponsor approval." In addition to Mitchell's failure to describe various alleged computer implemented steps in its process, it is unclear where Mitchell describes such a computer implemented step for transmitting marketing materials to a printer upon receiving corporate sponsor approval.

In the method called for in the amended claims herein, the retailer interacts via computer with the corporate sponsor marketing material information to generate a marketing material completed design which is then transmitted to the corporate sponsor via computer for approval. There are no such computer implemented steps described in Mitchell.

In addition, Mitchell's advertising campaign is directed at having the advertiser initiate contact with the user (the retailer) after the advertiser selects certain products to advertise. This is entirely different from the applicant's claimed method of producing marketing materials for a

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retail establishment where the retailer generates proposed marketing material designs accessed via computer from the corporate sponsor by the retailer.

Thus, in view of these various distinctions between the amended claims and the advertising method disclosed in Mitchell, there is no *prima facie* case of obviousness that would be established with Mitchell cited as the principal reference; and accordingly, the rejection over Mitchell and the other cited references should be withdrawn in view of these reasons and the claim amendments.

The claims also have been amended to include the computer implemented steps of receiving marketing material information from a franchisor and generating the marketing material completed design using the franchisor marketing material information, in addition to the corporate sponsor marketing material information, and submitting the completed design information to the franchisor and corporate sponsor for approval.

As acknowledged by the examiner, Mitchell does not disclose a franchisor. In addition, Mitchell hardly suggests the claimed computer implemented steps of interfacing with the franchisor in producing the completed design and the step of obtaining franchisor approval.

The Examiner holds that it would be obvious that Mitchell's retailer would be a franchisor. But, it is submitted that this is merely speculative and not based on any explicit teachings or suggestions in the Mitchell reference. The law states that the Examiner's burden of supporting a holding of obviousness is not met by assuming the presence of a missing component or a missing method step. The Examiner's reasoning that Mitchell's retailer can be a franchisor is misplaced for several reasons.

First, the retailer in Mitchell is selected by the advertiser, so substituting in a franchisor for the retailer would not make sense.

Secondly, the amended claims recite combined computer implemented steps involving both a corporate sponsor and a franchisor. Clearly, this is not suggested by anything in Mitchell.

For these additional reasons, the claims are allowable over the cited references, and therefore the rejection over Mitchell should be withdrawn.

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As to the secondary cited reference -- the patent to Evans et al. -- this reference merely discloses a method for creating computer implemented advertisements in which a customer interacts with computer implemented databases to produce printed advertising materials. The claims are clearly allowable over the combined teachings of Mitchell and Evans because neither reference discloses or suggests the computer implemented steps of interacting with the franchisor and corporate sponsor in producing final designs and in obtaining their approval.

In addition, the Examiner relies on Evans et al. as suggesting the claims step of obtaining corporate sponsor approval before the designs are approved for printing. However, the Evans et al. advertising method involves obtaining approval of the printed materials by the customer who is interactively producing the printed materials. This is no suggestion of separately obtaining outside approval from a corporation sponsor, much less from both the corporate sponsor and a franchisor.

Based on the foregoing remarks, it is submitted that all claims now in the application are allowable over the cited references and an indication of allowability is respectfully requested.

In addition, applicant submits herewith an information disclosure statement which applicant requests that the Examiner consider in the further examination of this application.

The comments herein with respect to cited references Mitchell and Evans et al. are with respect to the teachings of these references, and this response is not to be considered a waiver of applicant's right to separately establish a prior date of invention and disqualification of these references as prior art under sections 102 and 103.

Respectfully submitted,
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